

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**LESHAUN BENJAMIN,**

Plaintiff,

v.

**Case No. 18-CV-570**

**ALICIA SANCHEZ,**

Defendant.

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**ORDER**

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Before me is plaintiff Leshaun Benjamin’s second motion to amend his complaint. (ECF No. 31.) He states that he has “determined” that his complaint and his request for relief were “lacking detail.” (*Id.*) The defendant has not responded to Benjamin’s motion.

Under Federal Rule of Civil Procedure 15, “[a] party may amend its pleading once as a matter of course within” twenty-one days of service or within twenty-one days after service of a responsive pleading. Fed. R. Civ. P. 15(a)(1). Although Benjamin filed his motion to amend within twenty-one days of the defendant’s answer, he has already been permitted to amend his complaint once. He therefore may amend a second time “only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). The Rule instructs courts to “freely give leave when justice so requires.” *Id.* Nonetheless, district courts retain discretion whether to allow amendment and may deny the request because of “undue delay, bad faith or

dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.” *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Benjamin’s proposed second amended complaint does not appear to be filed in bad faith, and he does not seek to add new parties or allegations that would prejudice the defendant. In fact, the allegations in his proposed second amended complaint are nearly identical to his amended complaint. The only observable difference is that the proposed second amended complaint is much more difficult to read. Benjamin also expanded his request for relief and states that he seeks \$1 million in damages for the relevant incident and for “the ‘unlawful arrest that I suffered.’” (ECF No. 31-1.) But Chief Judge Pepper, to whom this case is assigned, did not allow Benjamin to proceed on a claim related to his arrest. (ECF No. 11.) Benjamin does not allege that Nurse Sanchez, the only defendant against whom he is proceeding, had any part in the alleged unlawful arrest.

Because Benjamin’s proposed second amended complaint does not appear to add any detail to his claim against the defendant, and he seeks to address unrelated events about which he has not been permitted to proceed, I will deny his motion to further amend his complaint. But I will direct the Clerk’s office to update the caption

of this case to reflect his request for \$1 million in damages. The amended complaint (ECF No. 18) remains the operative complaint in this matter.

**IT IS THEREFORE ORDERED** that Benjamin's motion for leave to file a second amended complaint (ECF No. 31) is **DENIED**. The Clerk shall update the caption of this case to reflect Benjamin's demand of \$1 million in damages.

Dated in Milwaukee, Wisconsin this 23rd day of September, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Nancy Joseph".

NANCY JOSEPH  
United States Magistrate Judge